

Citizen's Guide to the State of Alaska's New Aerial Pesticide Spraying Permit Process

The State of Alaska has broadly endorsed the practice of spraying chemicals from planes and helicopters for forest management purposes. New State regulations were adopted in late 2003 which change permit review process and public participation opportunities for addressing aerial spraying proposals.

Here is the new process, according to regulations found at 18 AAC 90—Aerial Spraying of Pesticides for Forestry Vegetation Management.

1) State Department of Environmental Conservation (DEC) Receives Spraying Permit application

- a) A permit for aerial application of pesticides is required under 18 AAC 90.505
- b) Permit applicants must adhere to requirements set out in regulations 18 AAC 90.515 (page 17-18 <http://www.state.ak.us/dec/deh/90mas1.pdf>).
- c) Sections of the regulations require permits to include the following:
 - “Proposed protective area” as required for forestry vegetation management under 18 AAC 90.800. This protective area would extend beyond the pesticide-free area of 35 feet from any surface or marine water body “to ensure that no pesticides enter the pesticide-free area”. The size and location of this protective area – also called “buffer” by the State – is not defined in the regulations. It is set by the permit applicant.
 - A Coastal Zone Questionnaire - if application occurs in a coastal district.
 - Location of each potentially affected surface waterbody or marine waterbody within 200 feet of the treatment area.
 - Average annual precipitation.
 - “Special precautions planned to protect human health, safety, and welfare, animals and the environment”. The regulations do not require protection of fisheries or riparian habitat.

2) **State Department of Natural Resources (DNR) Conducts 21-Day “Internal Review”

- a) DEC provides copy of spraying permit application to DNR, Office of Habitat Management and Permitting.
- b) DNR, Coastal Zone Management Program (CMP) reviews the proposed spraying permit to determine applicability of CMP review.
- c) DNR comments on proposed spraying to State DEC. Issues considered in review include:
 - Buffer size and location
 - Water reservations
 - Impacts to classified (fish-bearing) streams

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- d) Communities and affected parties can submit information about uses and concerns to DNR and CMP.

3) State Returns Permit to Applicant

- a) Once comments are received from DNR, or at the end of 21 days, DEC will either provide DNR's comments to the applicant or let them know that no comments were received from DNR.
- b) The applicant may make changes to the application based on the State's (DNR or CMP) comments and has 10 days to do so.

4) ** Applicant Provides Public Notice

- a) After re-submitting revised permit to DEC, with changes based on DNR and DEC comments, the applicant must publicly notice the permit application. According to regulation, the applicant is required to post two consecutive notices in newspapers of general circulation in the area that would be affected by the operation, and in other media DEC considers appropriate to achieve sufficient public notice. (18 AAC 15.050(c))
- b) DEC might send a copy of the permit application and the public notice to appropriate local, state, federal agencies and any affected coastal resource districts. Sec 18 AAC 90.50.520(d)

5) ** State Provides Public Comment Period

- a) From the date of the publication of the public notice, the public has 30 days to send in comments to DEC on the permit. According to Administration Procedures on public notices required by 18 AAC 15.050.

b) Public Comments Must Be Sent To:

Alaska Department of Environmental Conservation - Pesticide Program

Email: Rosemarie_Lombardi@dec.state.ak.us

Phone: ADEC Pesticide Program at (907) 745-3236 or 1-800- 478-2577

Fax: (907) 745-8125

Postal: Rosemarie Lombardi

Alaska Department of Environmental Conservation

Pesticide Program

500 S. Alaska Street

Palmer, AK 00645

6) ** State May Hold Public Hearings

- a) May be scheduled if the department finds that good cause exists, even if a hearing has not been requested under 18 AAC 15.060(a).
 - Local governments, organizations, and affected parties are encouraged to request public hearings and meetings on the permit.
- b) Public notice of the hearings must be published no fewer than 10 days before the hearing.
- c) A hearing would be sponsored by the applicant and is subject to 18 AAC 15.060(c)-(h).
- d) A transcript of the hearing must be provided to the department within 15 days of the hearing.

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- 7) **State DEC Makes Decision to Approve or Deny Spraying Permit**
- a) A permit can be denied or revoked for any of the following reasons:
 - Insufficient information (on the part of the applicator)
 - Inadequate special precautions
 - The applicant has violated a previous permit
 - Unreasonable adverse effects on human health, safety or welfare of animals, or the environment
 - The application is unlawful
 - b) If the permit is approved, DEC will send a copy of the Department's decision to issue a permit to the applicant and each person who commented. The permit takes effect no sooner than 40 days after issued by DEC.
- 8) **** Monitoring the Aerial Pesticide Spraying Project**
- a) Under the new regulations, DEC may require monitoring to ensure the permit requirements are followed. Monitoring is not required.
 - b) Local communities may choose monitor the spraying.

What information must the spraying permit applicant make available to the public for review?

1. All pesticides planned for use
2. Pesticide EPA Registration numbers (which provide the link to data on specific human health and environmental hazards for each chemical)
3. Target species
4. Formulation (chemicals in active ingredients)
5. Adjuvant (other, non-active ingredients)
6. Percentage of active ingredients in each pesticide formulation
7. Rate of application
8. Total size of treatment area
9. Location of treatment area
10. Proposed date and time of each application
11. Treatment method
12. Method of disposal of excess pesticide and empty pesticide containers
13. Precautions planned to protect human health, safety, and welfare, animals, and the environment
14. Evidence that the person who directs, conducts, or participates in the spraying has a working knowledge of the pesticides to be used, necessary safety precautions, and proof of certification (pesticide applicator certification)
15. For aerial application, a current copy of the FAA operations certificate for the aircraft or helicopter.
16. Coastal Zone Questionnaire - if application occurs in a coastal district.
17. Proof of liability insurance on file with the DEC Pesticide Program - if application performed by commercial applicator.

From the State of Alaska Pesticide Control Program website, summary of permit requirements:
<http://www.state.ak.us/dec/eh/pest/Permits.htm#information>

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